

BARNES & THORNBURG LLP

11 South Meridian Street
Indianapolis, Indiana 46204
(317) 236-1313
(317) 231-7433 Fax

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No. 23643
Group: 3728
Confirmation No.: 1515
Application No.: 10/613,144
Invention: CONTAINER FOR SHARP
INSTRUMENTS
Inventor: Michael Shane Cavanagh
Filed: June 3, 2003
Attorney
Docket: 20253-71466
Examiner: Jerrold D. Johnson

REISSUE DECLARATION

Mail Stop REISSUE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Michael Shane Cavanagh declare that I am the named inventor of U.S. Patent No. 6,065,596 and that I believe the original patent (i.e., U.S. Patent No. 6,065,596) to be partly inoperative by reason of the patentee claiming more than the patentee had a right to claim in the patent.

The patentee claimed more than the patentee had a right to claim in U.S. Patent No. 6,065,596 for at least the following reasons:

The patentee claimed more than the patentee had a right to claim by reciting, in original claim 1 of U.S. Patent No. 6,065,596, for example, "An apparatus comprising a scalpel and a container holding said scalpel, said scalpel including: a blade attached to a handle, said scalpel having a major cross-sectional dimension and a minor cross-sectional dimension; and said container including: an elongated scalpel recess closed at each end and receiving said scalpel, and having a first portion receiving said scalpel blade and a second portion receiving at least part of said scalpel handle, said portions having a width slightly greater than that of the major cross-sectional dimension of the scalpel and depth slightly greater than that of the minor cross-sectional dimension of the scalpel, the length of said scalpel recess being such that the scalpel blade is located within one of said portions irrespective of the position of the scalpel in the scalpel recess, and guide means for guiding a scalpel placed in said container to said scalpel recess; the arrangement being such that the scalpel received within said scalpel recess is positioned therein such that the scalpel blade is not directed towards the opening of the scalpel recess whereby a user's fingers are substantially prevented from contacting a cutting portion of the scalpel blade."

The patentee claimed more than the patentee had a right to claim by reciting, in original claim 11 of U.S. Patent No. 6,065,596, "A container for holding a suture needle holder and a suturing needle held thereby during surgical procedures, the container including: a substantially semi-cylindrical needle recess adapted to receive the suturing needle therein, and guide means for guiding a suturing needle held by a suture needle holder to said needle recess; the arrangement being such that a suturing needle received within said needle recess is positioned therein such that the point of the suturing needle is positioned within the needle recess such that a user's fingers are substantially prevented from contacting the point."

The patentee claimed more than the patentee had a right to claim by reciting, in original claim 12 of U.S. Patent No. 6,065,596, "A method of retrievably and temporarily storing a scalpel between uses of the scalpel during a surgical procedure, said scalpel having a handle portion and a blade and having a major cross-sectional dimension and a minor cross-sectional dimension, said method comprising: placing the scalpel held by an operator into an instrument recess in an instrument holding container, the scalpel being held within the container to be easily accessible during surgical procedures, and removing the scalpel by the operator from the

instrument recess, said instrument recess closed at each end and adapted to receive said scalpel, and having a first portion adapted to receive said scalpel blade and a second portion adapted to receive at least part of said scalpel handle, said portions having a width slightly greater than that of the major cross-sectional dimension of the scalpel and depth slightly greater than that of the minor cross-sectional dimension of the scalpel, the length of said scalpel recess being such that the scalpel blade is located within one of said portions irrespective of the position of the scalpel in the scalpel recess, and said instrument holding container having inclined guides for guiding a scalpel placed therein to said instrument recess, the arrangement being such that a scalpel received within said instrument recess is positioned therein to be easily accessible for re-use during surgical procedures and such that the cutting portion thereof is not directed towards the opening of the instrument recess whereby an operator's fingers are substantially prevented from contacting said cutting portion."

As evidenced by the rejection of original claim 1 during the examination of the present application, original claim 1 was too broad. In accordance with the examiner's proposed claim amendments e-mailed to the attorney of the undersigned on March 19, 2008, which proposed claim amendments cure the error of claim 1, for example, claim 1 now recites "An apparatus comprising a scalpel and a container holding said scalpel, said scalpel including: a blade attached to a handle, said scalpel having a major cross-sectional dimension and a minor cross-sectional dimension; and said container including: an elongated scalpel recess closed at each end and receiving said scalpel, and having a first portion receiving said scalpel blade and a second portion receiving at least part of said scalpel handle, said portions having a width slightly greater than that of the major cross-sectional dimension of the scalpel and depth slightly greater than that of the minor cross-sectional dimension of the scalpel, the length of said scalpel recess being such that the scalpel blade is located within one of said portions irrespective of the position of the scalpel in the scalpel recess, the width being substantially constant for the length of each of said portions, and guide means for physically guiding a scalpel placed in said container at a position outside of said recess into said scalpel recess; the scalpel recess being constructed so the scalpel received within said scalpel recess is positioned therein such that the scalpel blade is not directed towards the opening of the scalpel recess whereby a user's fingers are substantially prevented from contacting a cutting portion of the scalpel blade."

Also claims 11 and 12 have been amended, pursuant to the examiner's proposed claim amendments to cure the errors therein. Claim 11 now recites "An apparatus comprising a suture needle holder, a suturing needle being held thereby, and a container holding said suture needle holder, the container including: a substantially semi-cylindrical needle recess adapted to receive the suturing needle therein, and guide means for physically guiding a suturing needle held by a suture needle holder at a position outside said recess into said needle recess; wherein a suturing needle received within said needle recess is positioned therein such that the point of the suturing needle is positioned within the needle recess such that a user's fingers are substantially prevented from contacting the point." Claim 12 now recites "A method of retrievably and temporarily storing a scalpel between uses of the scalpel during a surgical procedure, said scalpel having a handle portion and a blade and having a major cross-sectional dimension and a minor cross-sectional dimension, said method comprising: placing the scalpel held by an operator into an instrument recess in an instrument holding container, the scalpel being held within the container to be easily accessible during surgical procedures, and removing the scalpel by the operator from the instrument recess, said instrument recess having a length longer than the length of the scalpel and said instrument being closed at each end and adapted to receive said scalpel, and having a first portion adapted to receive said scalpel blade and a second portion adapted to receive at least part of said scalpel handle, said portions having a width slightly greater than that of the major cross-sectional dimension of the scalpel and depth slightly greater than that of the minor cross-sectional dimension of the scalpel, the length of said scalpel recess being such that the scalpel blade is located within one of said portions irrespective of the position of the scalpel in the scalpel recess, and said instrument holding container having inclined guides for guiding a scalpel placed therein to said instrument recess, the arrangement being such that a scalpel received within said instrument recess is positioned therein to be easily accessible for re-use during surgical procedures and such that the cutting portion thereof is not directed towards the opening of the instrument recess whereby an operator's fingers are substantially prevented from contacting said cutting portion." The underlined subject matter shown above was erroneously omitted from respective claims 1, 11, and 12 in the original patent.

All errors in the present reissue application up to the time of signing of this declaration arose without any deceptive intention on my part. Every error in the patent which is corrected in


the present reissue application, and which is not covered in any of the prior Reissue Declarations submitted in this application, arose without any deceptive intention on my part.

I have reviewed and understand the contents of the specification and claims, as those claims currently stand up to and including the claims as amended in the Amendment filed concurrently herewith.

I believe myself to be the original and first inventor of the subject matter which is claimed and for which a reissue patent is sought.

I acknowledge my duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability in accordance with 37 C.F.R. § 1.56.

I further declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Michael Shane Cavanagh
a citizen of Australia

26-3-08
Date

Residence and Mailing Address
of Michael Shane Cavanagh:
Lieutenant Bowen Drive
Bowen Mountain NSW 2753
Australia

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